

# SENATE MOTION

MADAM PRESIDENT:

**I move** that Engrossed House Bill 1126 be amended to read as follows:

- 1           Page 1, delete lines 1 through 16, begin a new paragraph and insert:  
2           "SECTION 1. IC 22-2-5-2 IS AMENDED TO READ AS  
3           FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. **(a) Except as**  
4           **provided in subsection (b)**, every such person, firm, corporation,  
5           limited liability company, or association who shall fail to make  
6           payment of wages to any such employee as provided in section 1 of this  
7           chapter shall, as liquidated damages for such failure, pay to such  
8           employee for each day that the amount due to ~~him~~ **the employee**  
9           remains unpaid ten percent (10%) of the amount due to ~~him~~ **the**  
10          **employee** in addition thereto, not exceeding double the amount of  
11          wages due, and said damages may be recovered in any court having  
12          jurisdiction of a suit to recover the amount due to such employee, and  
13          in any suit so brought to recover said wages or the liquidated damages  
14          for nonpayment thereof, or both, the court shall tax and assess as costs  
15          in said case a reasonable fee for the plaintiff's attorney or attorneys.  
16          **(b) When making an award of liquidated damages and**  
17          **attorney's fees under subsection (a), a court may consider that it is**  
18          **a defense that:**  
19                  **(1) the failure to make timely wage payments was an**  
20                  **inadvertent mistake or error by the employer or a third party**  
21                  **designated by the employer to make wage payments; and**  
22                  **(2) the employer or a third party designated by the employer**  
23                  **to make wage payments paid the amount due and took any**  
24                  **other reasonable steps necessary to correct the failure not**  
25                  **later than five (5) business days after the earlier of:**  
26                          **(A) the date the employer or third party discovered the**  
27                          **failure; or**  
28                          **(B) the date the employer or third party received notice of**

- 1           **the failure."**
- 2           Page 2, delete lines 1 through 8.
- 3           Renumber all SECTIONS consecutively.  
            (Reference is to EHB 1126 Digest Correction as printed February  
            21, 2014.)

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Senator TALLIAN